62

HIGH COURT OF CHHATTISGARH, BILASPUR

Second Appeal No. 635 of 2003

Single Bench: Hon'ble Shri Justice Dilip Raosaheb Deshmukh, J.

Appellant (Plaintiff)	:	Lainu, aged about 70 years, S/o Bakhariya Satnami, R/o village, Gadapara Tahsil Lormi District Bilaspur (C.G.)
		Versus
Respondents (Defendants)	: 1.	Sharda Mani w/o Bhagat Ram Satnami, Aged about 40 years R/o village Dabo Tahsil Mungeli District Bilaspur C.G.
	: 2.	Bhagat Ram S/o Salik Ram Satnami, Aged about 50 years R/o Katghora, Near at Police Station, Tahsil Katghora, District Bilaspur C.G. Now at Korba.
	: 3.	Malik Ram S/o Lainu Satnami aged about 40 years.
	: 4.	Salik Ram S/o Lainu Satnami, aged about 45 years.
	: 5.	Phaguwa S/o Lainu Satnami, Aged about 40 years.
	: 6.	Jawahar S/o Lainu Satnami, aged about 39 years.
	: 7.	Lekhu, S/o Lainu Satnami, aged about 34 years, Sr.no.3 to 7 R/o village Gada para, Tahsil Lormi, District Bilaspur C.G.
	: 8.	Jamunabai, D/o Lainu Satnami, aged about 43 years, R/o Phokatpara, Mungeli, Tahsil Mungeli, Distt. Bilaspur (C.G.)
	: 9.	Jamun Bai, W/o Kartik Ram, aged about 39 years, R/o Vill. Pipertarai, Tahsil Kota, Distt. Bilaspur (C.G.)
	: 10.	Birji Bai, W/o Ramprasad, aged about 37 years, R/o Phokatpara, Mungeli, Tahsil Mungeli, District Bilaspur (C.G.)
	: 11.	State of Chhattisgarh, Through – Collector Bilaspur (C.G.)

Smt. Usha Chandrakar, Counsel for the appellant.

Ms. Sangeeta Mishra, Counsel for the respondents No. 3 to 8

Shri Akhil Agrawal, Counsel for the respondent No.11/State.

63

JUDGMENT / ORDER
(Passed on 28.03.2007)

Smt. Usha Chandrakar, learned counsel for the appellant seeks permission to withdraw this Second Appeal with liberty to file a fresh suit for declaration that the sale deed executed by Lainu in favour of the defendants was in fact a mortgage.

The appellants are at liberty to take recourse to such remedy as is available to them under law.

The appeal is dismissed as withdrawn. There shall be no order as to costs.

M.C.P.No.401 of 2006 for stay and M.C.P.No.478 of 2006 under Order 39 read with Section 151 of C.P.C. also stand dismissed.

Anjani

Sd/-
Dilip Raosaheb Deshmukh
Judge